

Exhibit 5

Justice Dept. Ends Stock Trade Inquiry Into Richard Burr Without Charges

Law enforcement officials told the senator that they would not pursue charges over his dumping of hundreds of thousands of dollars of stock after Senate coronavirus briefings early in the pandemic.



By Nicholas Fandos and Katie Benner

Jan. 19, 2021

WASHINGTON — The Justice Department informed Senator Richard M. Burr, Republican of North Carolina, on Tuesday that it would not pursue insider trading charges against him, quietly ending a monthslong investigation into his dumping of hundreds of thousands of dollars in stock in the turbulent early days of the coronavirus pandemic.

The decision by the department effectively cleared a cloud of legal jeopardy that has loomed over Mr. Burr since the sales were first disclosed in March. At the crux of the case was whether Mr. Burr, then the chairman of the Senate Intelligence Committee, had acted based on nonpublic information about the contagion that he received at senators-only briefings.

A handful of other senators drew similar scrutiny for their trades over the same period and were cleared in the spring and summer. Mr. Burr's case proved far more complicated and included grand jury subpoenas and a search of his electronic storage accounts. At one point, the F.B.I. seized his cellphone — a highly invasive tactic for a sitting member of Congress that required signoff by Attorney General William P. Barr.

Mr. Burr, 65, insisted throughout that he had acted within the law, but preemptively stepped down from his Intelligence Committee post to avoid distractions and adopted a low profile in the Senate. He had already planned to retire when his term ends in 2022.

"Tonight, the Department of Justice informed me that it has concluded its review of my personal financial transactions conducted early last year," Mr. Burr said in a statement. "The case is now closed. I'm glad to hear it. My focus has been and will continue to be working for the people of North Carolina during this difficult time for our nation."

It was not immediately clear whether the Securities and Exchange Commission, which was also investigating Mr. Burr's trades, had closed its case as well. The Justice Department had shared its decision with Mr. Burr's lawyer, Alice Fisher.

The Justice Department's decision in the Burr case came after prosecutors in Washington quietly closed two other politically fraught cases this fall without charges, a person familiar with the matter said on Tuesday when asked about other delicate cases.

In one inquiry, code-named Operation Echo, investigators opened a leak case into a Washington Post column about phone calls in late 2016 between Sergey I. Kislyak, the former Russian ambassador to the United States, and Michael T. Flynn, then Mr. Trump's incoming national security adviser. The leak was one of several matters under scrutiny by John H. Durham, the special counsel investigating the officials who opened the Russia investigation.

Prosecutors in the U.S. attorney's office in Washington investigated whether the disclosures came from former Obama administration officials who had access to sensitive information about the phone calls, according to two people familiar with the investigation. The investigators ultimately found no wrongdoing, one of the people said.

Prosecutors in Washington also recommended that the office close its investigation into Walid Phares, a former Trump campaign adviser suspected of secretly working on behalf of the Egyptian government in the months before Mr. Trump took office to influence the incoming administration.

Sign Up for On Politics A guide to the political news cycle, cutting through the spin and delivering clarity from the chaos. [Get it sent to your inbox.](#)

Michael R. Sherwin, the acting U.S. attorney in Washington, signed off on closing both of the cases on prosecutors' recommendations, according to a person familiar with the investigations. A Justice Department spokesman declined to comment.

The conclusion of Mr. Burr's case in particular brings to a close a remarkable and painful period for the Senate itself. Criminal investigations into lawmakers crop up from time to time, but rarely have so many been under scrutiny at once.

Though no one was ultimately criminally charged, news accounts of senators' rush of money saving stock transactions at a time when many Americans were badly hurting set off a debate in the halls of Congress and the campaign trail about conflicts of interest and the efficacy of lawmakers holding financial stakes in companies affected by their work. For an institution that already has dismally low public approval, the saga certainly did not help Congress.

With his name cleared, Mr. Burr could now try to reclaim the top committee post on intelligence or the Republican slot leading the Senate's health committee.

Either choice could have a cascading effect on other committee assignments and shift the panels' directions. If Mr. Burr moves to the health committee, it would leave Senator Marco Rubio of Florida, a conservative with national political ambitions and less of an appetite for bucking his party, as the top Republican on the intelligence committee. If Mr. Burr tries to return to that post, Senator Rand Paul of Kentucky, whose clashes with government health officials overseeing the pandemic response has alarmed many of his colleagues, would be next in line at the health committee.

Mr. Burr was one of five senators known to have been investigated by the Justice Department and Securities and Exchange Commission for possible insider trading around the pandemic's onset in the United States. Senators Kelly Loeffler, Republican of Georgia; James Inhofe, Republican of Oklahoma; and Dianne Feinstein, Democrat of California, were all cleared in May. An investigation into Senator David Perdue, Republican of Georgia, expanded to include transactions worth more than \$1 million in a financial company, where he once sat on the board, before it was closed in August.

Mr. Burr's remained open months longer

Though he did not contest that he sold much of his portfolio out of concern for the spreading pandemic, he insisted that his trades were based entirely on information reported by financial news outlets in Asia, not special briefings he received as a senator.

Insider trading cases — particularly those involving lawmakers — are notoriously difficult to prove. Lawmakers, like any other citizen, are allowed to make investment decisions based on public information. Under the 2012 Stock Act, they are prohibited from making decisions based on specific, nonpublic information they access as senators.

The challenge for investigators is teasing out public from nonpublic information with enough confidence to prove that a lawmaker like Mr. Burr acted with an unfair advantage over other investors. That is made even more difficult by the Constitution's speech or debate clause, which gives members of Congress unusual protections from investigators.

In this case, Mr. Burr's sales came just days after a series of briefings he received as a member of the Senate's intelligence and health committees in late January and early February focused on the coronavirus threat. At the time, Mr. Trump and members of his party were downplaying the virus threat and, though it had spread widely in Asia, the pandemic had yet to greatly affect American life or its financial markets.

Mr. Burr, who had long trained his eye on public health and warned about the threat of pandemics, clearly took it more seriously. On Feb. 13, he sold 33 stock holdings, worth a collective \$628,000 to \$1.7 million, a large share of his portfolio.

The timing allowed him to avoid losses other investors incurred when the stock market sharply contracted in February and March. The financial markets have since recovered and are scraping record highs.

There were other costs for Mr. Burr along the way. He stood on the sidelines, for instance, when the Intelligence Committee this summer delivered the final results of its yearslong inquiry into Russian election interference in 2016 and ties to the Trump campaign. He had overseen the politically sensitive investigation from its outset, working closely with the panel's top Democrat, Senator Mark Warner of Virginia, in the face of sharp objections by President Trump, winning respect from colleagues in both parties.